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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 21 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections of the
Cable Television Consumer Protection
and Competition Act of 1992

MM Docket No. 92-266

Re: Petition for

for programming delivered by satellite. Consequently, the benchmarks provide a significant disincentive to cable operators to carry non-broadcast programming services which are not delivered by satellite.

The Commission justifies the higher benchmark allowance for satellite channels as "consistent with both program costs for obtaining most satellite channels and with the relatively high value of those services to subscribers."¹ See First Report and Order, FCC 93-177 (rel. May 3, 1993), at Appendix E, ¶27. Although this observation may apply when satellite channels are compared with broadcast channels available over-the-air, ARC respectively submits that the Commission has not presented a factual basis for similarly distinguishing satellite channels from other non-broadcast channels delivered through alternative methods. Indeed, the Commission defines satellite channels to include programming which is delivered to a cable headend "via microwave or fiber optic feed" if it is available by satellite but not directly over-the-air. See FCC Form 393, Instructions for Worksheet 1.

¹ ARC filed on June 21, 1993 a Petition for Reconsideration of the Commission's benchmark system of rate regulation, principally on the grounds that: (1) uniform benchmark rates provide substantial incentives to cable operators to cease carriage of higher-quality and higher-

Thus, the Commission does not base the benchmark differential for satellite channels on the actual cost of receiving such programming at the cable headend by satellite rather than by microwave, fiber optic feed, or other means.

For the foregoing reasons, ARC respectfully requests that the Commission reconsider the distinction between programming delivered by satellite and other non-broadcast programming locally originated or delivered by microwave, fiber optic feed, or other means.

July 21, 1993

Respectfully submitted,

AFFILIATED REGIONAL
COMMUNICATIONS, LTD.

By David B. Gluck
David B. Gluck
Mark R. Boyes
600 Las Colinas Boulevard
Suite 2200
Irving, Texas 75039
(214) 401-0099

Its Attorneys